REMARKS

This Amendment, filed in response to the Office Action mailed July 16, 2008, is believed to fully address each and every point of the rejections raised in the Action. A favorable reconsideration on the merits is respectfully requested.

Claims Status

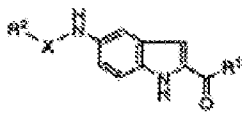
Upon entry of the amendment, which is respectfully requested, claims 1-17 and 21-25 will be all the claims pending in the application. Claims 1 and 2 are amended to more clearly set forth the feature of the invention defined in these claims. Claims 4-13 are amended to correct typographical errors by inserting a period at the end of the claims. Claims 18-20 are canceled without prejudice or disclaimer. Claim 21 is amended to be written into an independent form. Claims 22-25 are newly added. Support new claims 22-25 may be found by, at least original claims 1-3 and 14, respectively.

No new matter is added.

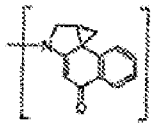
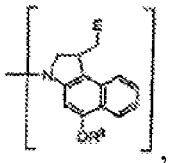
Partial Withdrawal of Restriction

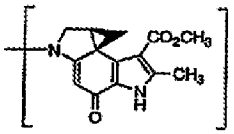
Applicants thank the Examiner for withdrawing the Restriction Requirement of February 4, 2008 and claims 1-21 directed to Groups I-III are examined together.

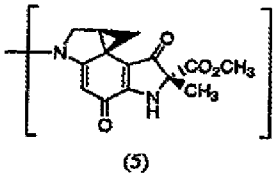
Applicants note that the Species Election Requirement remains and the Action indicates that the examined subject matter is:

An indole derivative of formula (I)  according to claim 1,

wherein:

R_1 is  , or  , and the remaining substituents are as defined in claim 1. Thus, claims 1-21 contain the elected species (as shown above), which are examined, and non-elected species (e.g., those containing substituents (2) or (5) shown on page 11 of the specification), which are not examined.

In this regards, Applicants note that claims 1-3, and 14-21 are objected to for containing non-elected subject matter, i.e., compounds (I) wherein R^1 is 
(2)
or


(5)
.

In the Amendment, claim 1 is amended to cancel the non-elected subject matter, rendering the objection moot.

Indication of Allowable Claims

In the Action, claims 4-13 are objected to as being dependent upon a rejected base claim, but are indicated to be allowable if rewritten in independent form.

Information Disclosure Statement

Applicants note that the Office has considered the references submitted with an IDS filed on January 5, 2007. However, all but one of the references listed in an IDS filed on September 12, 2006, have not been considered because copies of the references were not provided.

Applicants respectfully submit that, as a result of an agreement among the European Patent Office (EPO), Japan Patent Office (JPO), and the United States Patent and Trademark Office (USPTO), copies of documents cited in the ISR issued by any one of these International Searching Authority Offices generally are being sent to the other Offices when designated in the international application, and Applicants are not required to submit copies of the documents cited in the ISR. MPEP 1893.03(g). As the ISR was prepared by JPO, Applicants are not required to submit copies of the documents cited in the ISR and the Office shall consider all the documents listed in the ISR.

Specification - Sequence Listing compliance and Cross-reference

The Office has indicated that a Sequence Listing for a SEQ ID NO: 1-19, shown on pages 35-37 of the specification, a computer readable form of the Sequence Listing and a Statement should be submitted. In this regard, the Office Action indicates that a Notice to Comply Form, for which the Office has set a 3-month shortened statutory period for response, is attached. However, Applicants could not find the Notice either from the instant Office Action or from the PAIR.

Therefore, it is respectfully requested that a Notice to Comply with respect to the Sequence Listing being provided to Applicants, in order for Applicants to submit an appropriate Response.

It is further noted that the Office requires Applicants to include as the first paragraph of the specification information of continuing application data to which the instant specification claims benefit from.

]In response, the specification is amended accordingly.

Response to Claim Rejections - 35 U.S.C. § 112, first paragraph

In the Office Action, claims 18-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement and enablement requirement. The Office asserts that the specification describes only a compound against human ER(+) breast cancer Br-10 *in vivo* only, but fails to describe the other oncogene, or SNP gene, or how to suppress or activates any gene expression; and that the specification enables only a compound to suppress human ER(+) breast cancer Br-10, but fails to describe how the instantly claimed drug containing the claimed compound for suppressing or activating the other oncogene, SNP gene, or any gene expression.

Regarding claims 18-20, Applicants, without conceding or commenting on the rejection, solely in order to advance the prosecution, cancel claims 18-20 without prejudice or disclaimer.

Regarding claim 21, Applicants respectfully traverse for the following reasons.

The specification of the present application discloses the anti-cancer effects of the claimed compounds on various types of cancerous cells. For example, the disclosure of the specification at pages 44-45 describes the experiments testing anticancer activities *in vitro* by the claimed compound and Fig. 9 shows the results of the test. Fig. 9 shows that total 39 cancerous cell lines of breast cancer, brain tumor, colon cancer, lung cancer, melanoma (skin cancer), ovarian cancer, renal cancer, stomach cancer, and prostate cancer. In this regard, Applicants note that the tested compound 3-2 shows stronger anticancer activity on some of the tested cell lines, while showing weak activity on the other tested cell lines. Applicants respectfully submit that Fig. 9 shows that the tested compound shows *in vitro* anticancer activities to *all of the tested* cell lines, which are strong against some cancerous cell lines and weak against some other cell

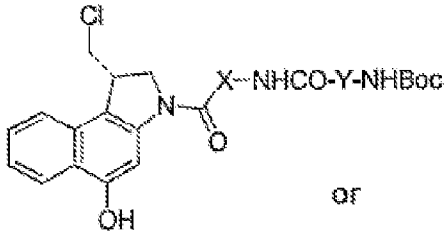
lines. Therefore, it is believed that claim 21 satisfies the written description and enablement requirements.

Accordingly, the enablement rejection is not sustainable and its withdrawal is respectfully requested.

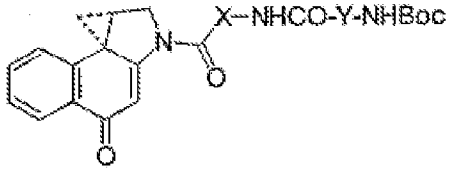
Response to Claim Rejections – 35 U.S.C. § 103(a)

In the Office Action, claims 1-3, 14, and 16 stand rejected under 35 U.S.C. 103 (a) as unpatentable over PCT publication W02003022806 (equivalent U.S. Publication No. US20050014700) by Boger *et al.* ("the WO '806 publication") in view of U.S. Patent No. 5,843,937 by Wang *et al.* ("the 937 patent"), U.S. Patent No. 6,281,354 by Boger *et al.* ("the '354 patent"), and Boger *et al.* , J. Org. Chem., 2001, 66, p.6654-6661.

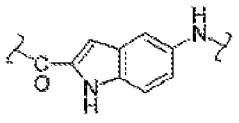
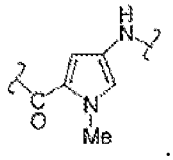
Applicants note that the WO '806 publication discloses a compound:



or



,

wherein the –C(O)XNH- is  , and –C(O)YNH_ is  .

The WO '806 publication teaches that the compound has a cytotoxic activity.

The Office relies upon the '354 patent and/or the '937 patent to show that one skilled in the art would replace N-BOC derivatives with an N-acetyl group as the compounds have structurally similar core compounds with similar biological functions.

In response, Applicants amend claim 1 as shown above, rendering the rejection moot.

Accordingly, it is believed that the rejection is not sustainable and its withdrawal is respectfully requested.

CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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